

## REMARKS

A corrected drawing sheet is submitted herewith to address the objection to the drawings by including a multi-directional scuffing pattern. No new matter has been added.

### Claim 36

Claim 36 is rejected as anticipated by Wyler (US 5,868,080). This claim includes a product-by-process limitation. If the product made by the claimed process is different from the prior art product, the claim is not anticipated. (Board of Appeals Decision in the present application, footnote 1.) Therefore, the question here is whether Wyler's disclosure of "an integral anti-skid surface 36, formed e.g. by knurling or roughening..." (column 4, lines 17-18) is different from a claimed product resulting from the process of "mechanically scuffing."

As shown by the Declaration of William P. Apps, the claimed "scuffed" surface is distinguishable from the Wyler surface. The Wyler surface would have a bumpy, shiny surface, while the claimed scuffed surface would have a smooth, yet dull surface with visible scuff marks. Since the product produced by the claimed surface is different from the Wyler product, Wyler does not anticipate these claims. The Declaration is sufficient because it shows that the product made by the product-by-process step (scuffing) would be distinguishable on examination from the Wyler prior art pallet.

### Claims 22, 23, 26, 29-31, 34, 35-37, 39-55

Claims 22, 23, 26, 29-31, 34, 35-37, 39-55 have been rejected as obvious over Pigott (US5,197,395) in view of Wyler and Fingerson (US4,522,009). The Examiner admits that Pigott does not disclose scuffing surfaces of the pallet to create slip-resistant surfaces. The Examiner argues that Wyler teaches the desirability of having slip-resistant surfaces on the upper decks of pallets and that Fingerson teaches scuffing surfaces to make an anti-skid surface.

To the extent that Wyler teaches the desirability of having slip-resistant surfaces on pallets, Wyler also provides that slip-resistant surface on a knurled or roughed surface

of the reinforcing bars. Thus, if one were to combine the teachings of Pigott and Wyler, one would still have a pallet with reinforcing bars, like Wyler.

Additionally, the teachings of Fingerson are not more relevant than Wyler. Fingerson also teaches fiberglass beams (col. 1, lines 16-19) having an upper surface that “may be roughened or coated with another material so as to provide an increased gripping surface for the flooring grating.” (col. 6, lines 5-8). First, “coated with another material” is not “scuffing.” Also, as with Wyler, “roughened” does not mean “scuffed.” Once again, in particular because the beam is fiberglass, it would be undesirable to scuff a fiberglass product. Instead, the “roughened” surface of the fiberglass beam in Fingerson is molded with the beam.

#### **Claims 24, 25, 27, 28, 32, 33 and 38**

Claims 24, 25, 27, 28, 32, 33 and 38 have been rejected as obvious over Pigott, Wyler, Fingerson and Sturgis (US2,599,076). Sturgis teaches an abrading brush. However, as explained above, Pigott, Wyler and Fingerson do not teach scuffing or abrading a surface. Therefore, the addition of the brush from Sturgis does not render these claims obvious.

If any additional fees are due, please charge all fees to Deposit Account No. 50-1984.

Respectfully submitted,

/John E. Carlson/

John E. Carlson, Reg. No. 37,794  
Carlson, Gaskey & Olds PC  
400 W. Maple Rd., Suite 350  
Birmingham, MI 48009  
(248) 988-8681

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